GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Public Services – A & C Dept., - Harassment and humiliation of Smt. Y.Annapurna Devi, AO (T) by Sri S.Venkateswarlu, former Joint Director of Agriculture, Kurnool –Disciplinary proceedings initiated – filed O..A. No.4844/2013 before the Hon'ble APAT – Judgment delivered on 26.12.2016 – Examined – Accepted – S.C.N. issued in terms of rule-27 of APSC(CCA) Rules, 1991 r/w Rule-9 of APRP Rules, 1980 – Examined – Rejected his explanation – Punishment of with hold 5% cut in pension for a period of one year – Orders – Issued.

G.O.Ms.No.21 **Dt. 27 -02-2018**

Read the following:-

1. From the C&DA., Hyd Lr.No.Vig.IV(3)239/2011, dated 7-2-2013.
2. G.O.Ms.No. 26, A&C (Vig.I) Dept., dated 23-2-2013.
3. G.O.Rt.No.396, A&C (Vig.I) Dept., Dated: 23.2.2013.
4. Judgment of the Hon'ble Tribunal in O.A.No.4844/2013 filed by Sri S.Venkateswarlu, the then JDA, Kurnool , dt. 26.12.2016
5. G.O.Rt.No. 579 A&C(Vig.I) Dept., Dated: 25-09-2017.
6 .Govt.Memo.No.13237/Vig.I/2012, Dated: 25-09-2017.
7 .Repn of Sri S.Venkateswarlu, former JDA,Kurnool , dt.18.11.17..
8. Govt.Memo.No.13237/Vig.I/2012, Dated: 10-01-2018.
9. Repn of Sri S.Venkateswarlu, former JDA,Kurnool , dt.17.01.18.
10.From the APPSC,Lr.No.70/DC&C/2018, Dated: 19.2.2018.

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ORDER:-

In the reference 1st read above, the Commissioner and Director of Agriculture, A.P.,Hyderabad has reported that the PD, Dist. Women and Child Development Agency, Kurnool has submitted Inquiry Report against Sri S. Venkateswarlu, the then Joint Director of Agriculture, Kurnool now retired as Addl. Director of Agriculture, O/o. C&DA, Hyd., conducted by the Committee for Protection of Rights of Working Women, Kurnool on the complaint made by Smt. Y. Annapurna Devi Agriculture Officer (Tech) O/o. JDA, Kurnool for his harassment during the course of official duties.. In the said report the allegation has been proved. While communicating the above report the Commissioner and Director of Agriculture, A.P.,Hyderabad requested the Govt to issue necessary orders initiating disciplinary proceedings against the individual under A.P.R.P. Rule, 1980, as the individual was retired on 31.8.2011.

2. The Govt have examined the matter and framed charges against him in the references 2nd and rd read above, with a direction to submit his written statement of defence. Instead of giving his written statement of defence Sri S. Venkateswarlu, (rtd) Addl. Director has approached the Hon'ble A.P. Administrative Tribunal by filing O.A.No.4844/2013. The Hon'ble Tribunal given interim stay orders dt.26.3.2013 with a direction to file counter affidavit. Accordingly, the Commissioner and Director of Agriculture, A.P., Hyderabad filed counter affidavit on behalf of respondents.

3. In the ref. 4th read above,, the Hon'ble Tribunal delivered its verdict and has observed that,

> " as per Sub-Rule-2 of Rule-27 added by way of amendment by virtue of GO.Ms.No.557 dt:14.12.2005, the report of the Complaints Committee on the allegations of sexual harassment and atrocities on

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women in the working place shall be deemed to be an enquiry report under CCA Rules and without conducting any departmental enquiry as envisaged in Rule-20 or 22 of CCA Rules, if the Government is proposed to impose on Government servant any of the penalties specified in Rule-9 or Rule 10 on the basis of the enquiry report of the Complaints Committee, the disciplinary authority shall take action on the basis of the recommendations contained in the said enquiry report after furnishing a copy of the report to the charged Government officer to make a representation if any, within a reasonable time fixed and after taking into consideration such representation, impose any of the penalties specified in Rule-9 or Rule-10 CCA Rules, 1991. The above said view is fortified by the decision of the Supreme Court in the case of MEDHA KOTWAL LELE AND OTHERS vs. UNION OF INDIA reported in 2013(1) SCC

By virtue of Rule-27 Sub-Rule-2 of CCA Rules, 1991, the respondents in the case on hand, can conclude the disciplinary proceedings and there is no need or necessity to conduct regular departmental enquiry as envisaged under Rule-20 or 22 of CCA Rules since the enquiry report submitted by the Complaints Committee/Project Director, District Women and Child Development Agency, Kurnool is deemed to be the enquiry report under Rules-20 and 22 of the CCA Rules.

As already referred to above, the applicant without submitting the written statement of defence / explanation, filed the present OA, obtained the interim order and stalled the disciplinary proceedings.

In the light of the above discussion, this Tribunal is of the considered view that there is no illegality or even irregularity in the initiation of disciplinary proceedings against the applicant on the strength of the report of the Complaints Committee for protection of the right of working women. Point is answered accordingly.

While observing above, the Hon'ble Tribunal has taken into consideration Rule-27(2)(statutory Rule) of CCA Rules, 1991 and the fact that the applicant who has retired from service w.e.f.30.8.2011 till date could not get full pension and retrial benefits, it is made clear that 1st respondent (i.e. Govt) is at liberty by exercising the authority provided under Rule-27(2) of CCA Rules if so advised, to withdraw the charge memo if propose to impose on the applicant any of the penalties specified in Rule-9 or Rule-10 of the CCA Rules on the basis of the report of the Complaints Committee dt:20.9.2012 treating it as enquiry report under CCA Rules, issue show cause memo with a copy of enquiry report dt:20.9.2012 to the applicant enabling him to make representation if any, within reasonable time and after taking into consideration such representation if any, impose any of the penalties specified in Rule 9 or Rule 10 of APCS (CC&A) Rules, 1991. In view of the finding on the point, OA is dismissed, but without costs".

4. The Government have examined the matter in terms of the orders of the Hon'ble Tribunal and took a decision to with draw the charge memo issued in the ref.s. 2nd and 3rd above and treating the report of Committee for Protection of Working Women, Kurnool as enquiry report under CCA Rules, 1991 and decided to communicate the same to Sri S.Venkateswarlu, the then JDA, Kurnool now retired as Addl. Director of Agriculture, O/o. C&DA, Hyd.for his explanation. Accordingly, in the ref. 5th above orders were issued to with draw the charge

memo. In the ref. 6th above issued a Show Cause Notice to him. The charged officer submitted his explanation in the ref.7th cited. The Govt have examined and observed that there is no grounds for consideration and took a provisional decision to impose a punishment of with holding 5% cut in pension for a period of one year.

5. In the ref.8th read above, again a S.C.N. was also issued for his explanation on the proposed punishment of 5% cut in pension for one year under Rule-9 of APRP Rules, 1980. The individual has submitted his explanation requesting to drop further action in the matter as he is retired during the year 2011 and to settle the pensioner benefits at the earliest vide ref.9th read above. In the said explanation he has not brought any new grounds for consideration.

6. The Government have further examined, with reference to the material on record available and decided to impose a penalty of with holding 5% cut in pension for a period of one year against Sri S.Venkateswarlu, former JDA, Kurnool and retired as Addl. Director, O/o. C&DA,A.P.,Hyderabad. When consulted the APPSC has required under rules agreed with the proposed punishment vide ref. 10 read above.

7. The Govt. have examined the case in detail, taking in to consideration of the material on record decided and hereby order 5% cut / with hold in pension for a period of one year as measure of punishment against Sri S.Venkateswarlu, the then JDA, Kurnool now retired as Addl. Director of Agriculture, O/o. C&DA.in the case.

8 The Special Commissioner of Agriculture, A.P.Guntur shalltake further action in the matter.

(**BY ORDER AND IN THE NAME OF THE GOVERNOROF ANDHRA PRADESH)**

B. RAJSEKHAR
SPECIAL CHEIF SECRETARY TO GOVERNMENT (FAC)

To
The individual concerned through the Spl. Commn of Agrl. A.P., Guntur.
The Special Commissioner of Agriculture, A.P., Guntur.
Copy to:
The Secretary, A.P.P.S.C., Vijayawada.
The Secretary, APVC, Sectt. Buildings.
The A.G.A.P., Hyderabad.
The DTA, AP, Vijayawada.
SF/SCs.

//FORWARDED BY ORDER//

SECTION OFFICER